

## MEETING MINUTES CITY OF MILPITAS

**Minutes of:** Regular Meeting of Milpitas City Council  
**Date:** Tuesday, March 18, 2014  
**Time:** 6:00 PM Closed Session / 7:00 PM Open  
**Location:** Council Chambers, Milpitas City Hall,  
455 East Calaveras Blvd., Milpitas

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### ROLL CALL

Mayor Esteves called the meeting to order at 6:00 PM. The City Clerk noted the roll.

**PRESENT:** Mayor Esteves, Vice Mayor Polanski, Councilmembers Giordano and Montano

**ABSENT:** Councilmember Gomez was absent at roll call. He arrived at 6:06 PM.

### CLOSED SESSION

City Council convened in Closed Session to discuss litigation and labor negotiations.

City Council then convened in Open Session at 7:07 PM.

### ANNOUNCEMENT

None out of Closed Session.

### PLEDGE

Boy Scouts Troop No. 92 presented the flags and led the pledge of allegiance.

### INVOCATION

Councilmember Giordano quoted Eleanor Roosevelt, and dedicated the quote to her female colleagues on the Council.

### MEETING MINUTES

Motion: to approve the minutes of March 4, 2014 City Council meeting, as amended

City Clerk Mary Lavelle added the last names to two of the speakers under Public Forum on March 4, Seema Nair and Jeff Cech (on page 2 of draft meeting minutes).

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

### SCHEDULE OF MEETINGS

Motion: to approve the Council Calendars/Schedule of Meetings for March and April 2014, as amended

City Manager Tom Williams announced two changes in April:

- 1) Santa Clara Valley Transportation Authority's Board of Directors workshop was canceled for April 25 and would be rescheduled later in June
- 2) Commissioners Recognition luncheon was scheduled on Saturday, April 26, 2014 at 11:30 AM at the Milpitas Community Center.

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

### PRESENTATION

Mayor Esteves and Vice Mayor Polanski presented Certificates of Recognition to Bronze, Silver, Gold and Platinum corporate sponsors of the City's 60<sup>th</sup> Anniversary Gala and Family Day celebration, held January 25-26, 2014. Mayor and Vice Mayor thanked all of the companies and those involved in the events throughout the year, including the kick-off in January. Those

companies and organizations that were recognized included DR Horton, SanDisk, Robson Homes, Integral Communities, Taylor Morrison, Shea Properties, Milpitas Post, Pacific Mall Silicon Valley, Warmington Residential, Milpitas Historical Society, Milpitas Parks and Recreation Foundation, and Milpitas Police Officers Association.

## **PUBLIC FORUM**

None.

## **ANNOUNCEMENTS**

Councilmember Giordano displayed a sign with message “Milpitascare.org” explaining that it was an effort of a group of local churches to encourage residents to volunteer and help out in various projects around the City.

## **ANNOUNCEMENT OF CONFLICT OF INTEREST AND CAMPAIGN CONTRIBUTIONS**

City Attorney Ogaz asked City Councilmembers if they had any personal conflicts of interest or reportable campaign contributions. No conflicts were reported.

Councilmember Giordano commented that information was to be reported over the past year, and asked Mr. Ogaz to confirm that fact, and he did.

Councilmember Gomez reported that he had received a contribution from Tri-Pointe Homes (re: agenda item No. 6) in his campaign for state Assembly.

## **APPROVAL OF AGENDA**

Motion: to approve the agenda, as submitted

Motion/Second: Vice Mayor Polanski/Councilmember Giordano

Motion carried by a vote of: AYES: 5  
NOES: 0

## **CONSENT CALENDAR**

Motion: to approve the Consent Calendar (items noted with \*asterisk)

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion carried by a vote of: AYES: 5  
NOES: 0

- \* 2. Commission Appointment Newly appointed Allen Thomas to the Veterans Commission as Alternate No. 2, with a term that will expire in February 2016.
- \* 3. Public Art projects Received the staff report of FY 2013-14 public art projects and approve the budget appropriation of \$13,770.
- \* 5. Adopt Ordinance Waived the second reading and adopted Ordinance No. 277.1 including minor changes in the final version, implementing the update of the Development Impact Fee ordinance
- \* 6. Resolution
  - 1) Adopted Resolution No. 8348 annexing real properties located within Final Tract Map No. 10221 into Community Facilities District 2005-1 for Tri-Pointe Homes’ Cobblestone residential development at 345 Los Coches.
  - 2) Approved the Subdivision Improvement Agreement between the City of Milpitas and Tri-Pointe Homes, Inc. for public improvements associated with Final Tract Map No. 10221 (Cobblestone residential development).
  - 3) Approved the Final Tract Map No. 10221 (Cobblestone) and Public Improvement Plans 2-1188 (construction documents for the associated public improvements).
- \* 7. Resolution Adopted Resolution No. 8349 authorizing the City Manager to award and execute a construction contract with Suarez & Munoz Construction, Inc. for the Pinewood Park Improvements, Projects No. 3412, No. 5095, No. 5096, and No.7116, in the amount of \$1,677,000; and, authorizing the Director of Public Works to negotiate and execute change orders for Pinewood Park Improvements in the cumulative contingency amount not to exceed \$200,000 for the Project.

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| * 8. Resolution                                          | Adopted Resolution No. 8350 approving a contract with Municipal Emergency Services, Inc. for March 4, 2014 to June 30, 2015 (the “Initial Term”) with four 1-year options to renew, not to exceed \$96,000 for the first year and subject to appropriation each year thereafter; and, authorizing the City Manager or designee to exercise annual options with increases not exceeding 3%, subject to the appropriation of funds and without further action by the City Council.                  |
| * 9. Resolution                                          | Adopted Resolution No. 8351 approving and awarding a contract to Alpha Analytical Labs, Inc. for Bacteriological Laboratory Analysis Services with an initial term April 1, 2014 to June 30, 2015, in an amount not-to-exceed \$22,380; and, authorizing the Purchasing Agent to exercise up to four annual options for \$22,380 for a total contract amount over five years of \$111,900, subject to appropriation of funds and without any further City Council approval                        |
| *10. Resolution                                          | Adopted Resolution No. 8352 awarding and approving a contract with Eurofins Eaton Analytical, Inc. for unregulated contaminant Monitoring Rule 3 (UCMR3) and other laboratory analysis services with an initial term April 1, 2014 to June 30, 2015, not-to-exceed \$11,900; and, authorizing Purchasing Agent to exercise up to four annual options of \$11,900 for a total amount over five years of \$59,500, subject to appropriation of funds and without any further City Council approval. |
| *11. Approve Agreement with Bartle Wells Assoc. for FUMP | Approved a consultant agreement with Bartle Wells Associates for the Financial Utility Master Plan Update, Projects No. 7111 and No. 6106, in an amount not to exceed \$41,040 and for a term ending December 31, 2014.                                                                                                                                                                                                                                                                           |

**PUBLIC HEARING**

- ## 1. Smoking Issues – Two Ordinances

Principal Planner Felix Reliford provided background on recent issues relevant to smoking, in particular use of electronic cigarettes, vaporizers and other devices. Staff recommended a zoning text amendment for the location of shops, and an ordinance to define e-smoking devices, Head/Smoke/Tobacco Shop and related terms.

Councilmember Giordano asked if other cities were looking at regulating this issue and Mr. Reliford replied yes, more than 100 cities in California.

Next, the Mayor opened the public hearing.

**Robert Marini**, Milpitas resident, commented that it was okay to regulate for those under age 18, and the Council should not undermine No Smoking regulations throughout the City. The target should be more toward adults using this legal product.

**Isaac Hughes**, resident, spoke about garbage rates, and sought more information for seniors. The Mayor informed him that was not the subject matter of the hearing, and that the Public Forum was concluded already.

(1) Motion: to close the public hearing, after receiving comments

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES : 0

Next, City Attorney Ogaz read aloud the title of Ordinance No. 38.813, “An Ordinance of the City Council of the City of Milpitas Amending Chapter 10 of Title XI of the Milpitas Municipal Code Defining Electronic Smoking Device and Head/Smoke/Tobacco Shop and Other Related Amendments” and he read the title of and Ordinance No. 227.6 “An Ordinance of the City Council of the City of Milpitas Amending Chapter 215 of Title V of the Milpitas Municipal Code Regulating Electronic Smoking Devices.”

(2) Motion: to waive the first readings beyond the titles of Ordinance No. 38.813 and Ordinance No. 227.6

Motion/Second: Councilmember Giordano/Councilmember Gomez

Motion carried by a vote of: AYES: 5  
NOES: 0

(3) Motion: to introduce both Ordinance No. 38.813 and Ordinance No. 227.6

Motion/Second: Councilmember Giordano/Vice Mayor Polanski

Motion carried by a vote of: AYES: 5  
NOES: 0

## NEW BUSINESS

### 4. Report on Utility Rates

City Engineer/Public Works Director Jeff Moneda explained sewer and water rate increases since 2011, based on the Proposition 218 hearing held then resulting in the approved four-year rate structure. He discussed the City's share of costs for the Regional Wastewater Facility improvements, toward which Milpitas must contribute (\$168 million in total over 30 years). Mr. Moneda provided factors of the rate calculations.

Ms. Ashwini Kantak, Assistant Director of Environmental Services for the City of San Jose, spoke next, explaining the 30 year Capital Improvement Project Validation Process, per the facility's Plant Master Plan.

City Manager Williams personally thanked City of San Jose staff for their diligent work with City of Milpitas Engineering staff.

Next, Kerrie Romanow, Director of Environmental Services for the City of San Jose, replied to Vice Mayor Polanski on how that agency came up with CIP for the plant. She explained how her office worked with the member cities for the facility owned by San Jose and Santa Clara along with participating cities including Milpitas.

Mr. Moneda identified the rationale behind implementation of the 14.5% increase in sewer rates. Without doing so, costs for Milpitas' participation in that Regional Facility's improvement plan would simply be delayed, causing a rate increase of approximately 22% or higher the following year. This would be an across the board rate increase for sewer service in the City of Milpitas.

Next, Mr. Moneda discussed water rate increases and factors in those increases. A 7.8% rate increase was warranted for residents now, in the fourth year of the approved rate program. He detailed water conservation requirements of the two water wholesalers to the City, Santa Clara Valley Water District and San Francisco Public Utilities Commission.

Vice Mayor Polanski asked if the City had agreements in place, to maintain percentages in place of water use by each provider and staff replied yes.

Mayor Esteves asked about consequences of water use reduction while operating costs stayed same or increased while revenue declined.

Councilmember Montano asked what the 30-year projects in the CIP were. Ms. Kantak responded regarding the rehabilitation of the 60 year-old wastewater plant and its components, several of which she described. City of Milpitas represented approximately 8% of the total use of the Regional Wastewater Facility.

Staff reported the overall strategy of a 14.5% increase in sewer rates, and between 2.5% to 14% water rates increase for the fourth year.

Vice Mayor Polanski felt this strategy was “easing the pain” rather than to defer increases to the future, which could mean a much larger rate increase later. She asked when CIP projects would start and San Jose staff reported some were underway, with some smaller projects scheduled later. The Vice Mayor was pleased that the odor protection part of the plan was moved up sooner in the 30-year timeframe, for Milpitas to benefit soon.

Councilmember Montano requested a copy of the Master Plan.

Mayor Esteves asked if the increases were similar to other cities and staff replied yes. He commented on the sewer CIP, while he served on the Treatment Plant Advisory Commission. Milpitas was most concerned with the odor impact project within the first five years. San Jose staff noted that 2018 was the transition date for stopping the solar drying beds (one source of odor).

Councilmember Montano asked if fees were regulated and staff said yes. City Attorney Ogaz responded that rates were approved in 2011, and the City followed state law for the Proposition 218 process.

Next, the Mayor invited speakers from the audience.

**Robert Marini**, Milpitas resident, told Council that it could not overcharge customers for sewer rates. The average number of persons per household was manipulated he believed, causing too high a rate for single family residences based on a chart he displayed.

**Gary Long**, Silveira St. resident, needed to consolidate this program with a building construction moratorium. More units being built around the City now meant greater use of water throughout the City.

Councilmember Giordano worked for the City back in the 1970s when there was mandatory rationing. If the City went over its allotment and was penalized, how did that factor in? What was the set point for buying water, and was more allowed if there were more residents? Mr. Moneda replied this was not established yet.

Mayor Esteves asked whether the City was sending out information to residents about conserving water. Mr. Moneda replied yes, with door hangers being placed on homes where any concerns were noticed, with tips on how to conserve and avoid leaks.

Councilmember Montano talked about water meters, and asked for information on automated meters city-wide. This would be proposed in the CIP, after a pilot program (AMI) was implemented. Staff would pursue grants to move this along more quickly than the 5-year CIP savings timeframe anticipated.

**Motion:** to receive the staff report regarding water and sewer utility rate increases and impacts from a regional wastewater treatment plant rehabilitation program and the regional water supply shortage

Motion/Second: Vice Mayor Polanski/Councilmember Gomez

Motion carried by a vote of: AYES: 5  
NOES : 0

## **ADJOURNMENT**

Mayor/Chair Esteves adjourned the Council meeting at 8:38 PM.

The foregoing minutes were approved by the Milpitas City Council on April 1, 2014.

Mary Lavelle, Milpitas City Clerk